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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/472,042	12/27/1999	ARTHUR SWANBERG	1963/002	8250

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EXAMINER

HARRISON, JESSICA

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 12/28/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/472,042**

Applicant(s)  
**Swanberg et al.**

Examiner  
**J. Harrison**

Art Unit  
**3713**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on November 5, 2001 (IDS)
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2-4 20) ☐ Other:

Art Unit: 3713

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is confusing in that use of the terminology World Wide Web is inapt. The World Wide Web is a conglomeration of hyperconnected multimedia data, generally utilizing hypertext markup language as its form. It is a graphical subset of information accessed through the Internet. By its nature and definition, it can not be a network as claimed. The Internet is an infrastructure that supports the transmission of electronic data. It consists of all servers, routers, telephone lines, satellites, and other communications instruments used to convey electronic data. It is presumed that Internet was the terminology intended to define the network being claimed by applicant.

Regarding claim 18, "said computer including an Internet connection" is vague: it is assumed said computer includes means for providing an Internet connection. Furthermore, there are two computer programs defined in claim 18 which are not clearly delineated, thus rendering

Art Unit: 3713

the references to "said program" in the dependent claims indefinite in as much as it is not known which of the two distinct programs are further defined.


It is also noted that, in general, many of applicants claims attempt to further define structure by functional or descriptive language. Applicant is reminded if his intention is to describe a structure by function, means for performing the function are necessary for the function to be limiting to the structure. For example, claim 13 appears entirely functional and does not further limit any structure of the system. A means for comparison needs to be established for a comparison step to be limiting to the system.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

 Claims 1-3~~4~~ are rejected under 35 U.S.C. 102(e) as being anticipated by Peppel ('216).

Note that Peppel encompasses a wide range of digital media, including data cards which the examiner reads to encompass well known smart cards. Peppel encompasses both network interactivity as well as PC based interaction/play, security features/aspects, interaction with a database, data storage on card, themed interaction and application to sports simulation gaming. The reference is deemed to meet the claims as broadly claimed.

Art Unit: 3713

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional art is related to other types of electronic trading card games/systems and sports simulative games. It is urged that applicant fully consider all art of record in preparing a response to the rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Harrison whose telephone number is (703) 308-2217.



JESSICA J. HARRISON  
PRIMARY EXAMINER

jjh

December 22, 2001